

# **EXHIBIT X**

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

- - - - -X

CELESTE WILLIAMS, LAUREN CRUZ,  
EMANUEL O'NEALE, BRANDON STURMAN,  
LATRESHA HALL, LAKEISHA MITCHELL,  
CHRISTINE BORBELY and JANINE APONTE  
on behalf of themselves and others  
similarly situated,

Plaintiffs,

-against-

Index No.

07cv3978

TWENTY ONES, INC., d/b/a THE 40/40  
CLUB, SHAWN CARTER p/k/a JAY-Z,  
JUAN PEREZ and DESIREE GONZALES,  
Defendants.

- - - - -X

January 22, 2008

11:11 p.m.

DEPOSITION of THERESE RAZ, a Plaintiff  
herein, taken pursuant to Notice, and  
held at the offices of Littler Mendelson,  
P.C., 885 Third Avenue, New York, New York,  
before Leeann Bertorelli, a Court Reporter  
and Notary Public of the State of New York.

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THERESE RAZ

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1 A. Yes.  
 2 **Q. Would they pay in cash at that time?**  
 3 A. If they had cash, or if they wanted  
 4 to pay with a card.  
 5 **Q. They could open a tab?**  
 6 A. They could open a tab.  
 7 **Q. How would you do that?**  
 8 A. I would ask the customer if they  
 9 want to leave it open or close it. If they  
 10 wanted to close it, I would open up a tab, put  
 11 the name of the customer. You would have to make  
 12 an imprint of the credit card as well.  
 13 **Q. You would take their credit card if**  
 14 **they wanted to open a tab?**  
 15 A. And ID, yes.  
 16 **Q. And identification? And at that**  
 17 **point you would take an imprint of the credit**  
 18 **card?**  
 19 A. Yes.  
 20 **Q. Would you also swipe it at that**  
 21 **time?**  
 22 A. Yes.  
 23 **Q. And you would hold it then**  
 24 **throughout the night until they were ready to**  
 19  
 1 **close their tab?**  
 2 A. Right. If it was over a hundred  
 3 dollars, we would have to have them sign the  
 4 imprint, the driver license ID number as well.  
 5 **Q. Did people also order food from you?**  
 6 A. Yes.  
 7 **Q. Did you follow the same procedures?**  
 8 A. Yes.  
 9 **Q. If someone paid cash, did you**  
 10 **include a tip in the amount of the order?**  
 11 A. If it was over \$30 we were able to  
 12 add gratuity to it.  
 13 **Q. How much?**  
 14 A. 20 percent.  
 15 **Q. And you would do that automatically?**  
 16 A. Yes.  
 17 **Q. Would you inform the customer of**  
 18 **their gratuity?**  
 19 A. Yes.  
 20 **Q. Did anyone ever refuse to pay that**  
 21 **amount?**  
 22 A. Yes.  
 23 **Q. Someone refused to pay that?**  
 24 A. Yeah. We would show them on the

1 check, and some people would dispute it.  
 2 **Q. And what would happen in that case?**  
 3 A. I would tell them this is how it  
 4 goes. This is the policy. If they continue to  
 5 argue, then at that point I would call a manager  
 6 over. And then either they pay for it, or they  
 7 don't. We don't really make them pay, because  
 8 it's gratuity, so.  
 9 **Q. When you received a cash tip, what**  
 10 **did you do with that amount?**  
 11 A. We would put it in a tip bucket.  
 12 **Q. Would all the bartenders use the**  
 13 **same tip bucket?**  
 14 A. Yes.  
 15 **Q. What would you do with your credit**  
 16 **card tips?**  
 17 A. We waited at the end of the night to  
 18 make sure it cleared, and then we would receive  
 19 it at the end of the night when we changed our  
 20 singles.  
 21 **Q. At each night you received all of**  
 22 **your credit card tips?**  
 23 A. Yes.  
 24 **Q. Did the bartenders share their tips?**  
 21  
 1 A. Yes.  
 2 **Q. How did that process work?**  
 3 A. We put everything together, add it  
 4 up, make a tip out to our barbacks, and then  
 5 split it among how many bartenders were working  
 6 behind the bar.  
 7 **Q. Would that be for all the bartenders**  
 8 **in the restaurant --**  
 9 A. No.  
 10 **Q. -- or for particular bars?**  
 11 A. Only for a particular bar.  
 12 **Q. Each bar would pool among**  
 13 **themselves?**  
 14 A. Yes.  
 15 **Q. And what would you tip out to the**  
 16 **barbacks?**  
 17 A. 20 percent.  
 18 **Q. And did you also receive a**  
 19 **percentage of tips from servers?**  
 20 A. Yes, if -- only on the weekdays.  
 21 Weekends, they would go to the service bar. So  
 22 during the week, if waitresses came to the  
 23 bartenders to get drinks, they would give us a  
 24 tip out.

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1 Q. So the service bars weren't opened  
2 every day?

3 A. No.

4 Q. Was it only Friday and Saturday?

5 A. Only -- or if there's a big event  
6 during the week.

7 Q. And during the weekdays when the  
8 service bar wasn't open, servers would come to  
9 regular bars for their drinks?

10 A. Only the main bar, if it was  
11 downstairs.

12 Q. And on those occasions the  
13 bartenders would receive a tip out from servers?

14 A. Yes.

15 Q. But during the weekends the main bar  
16 would not receive a tip out?

17 A. No.

18 Q. The service bartenders would?

19 A. Yes.

20 Q. Did the service bartenders pool  
21 their tips --

22 A. No.

23 Q. -- with other bartenders?

24 A. Actually except for the mez -- the

1 those meetings?

2 A. No.

3 Q. So just servers and bartenders only?

4 A. Yes.

5 Q. Who ran the meeting?

6 A. It would be Des, or if she wasn't  
7 available, it would be a manager.

8 Q. And what was discussed at those  
9 meetings?

10 A. Just how the weekend -- cause  
11 usually the weekends are busy. So if anything  
12 went wrong, you know, we tried to fix it that  
13 day, so it doesn't happen again. That's how  
14 everything went during the week, any changes.

15 Q. Did employees have an opportunity to  
16 ask any questions that they have?

17 A. Yes.

18 Q. Raise any concerns that they might  
19 have?

20 A. Yes.

21 Q. Was Shawn Carter ever present for a  
22 staff meeting?

23 A. No.

24 Q. Was Juan Perez ever present for a

23

25

1 upstairs bartender would pool with the mez bar.

2 Q. What do you mean by the "mez bar"?

3 A. The mezzanine bar is the upstairs  
4 bar, which is -- they serve the customers. Then  
5 you have your mezzanine service bar, which only  
6 serves the waitresses. And at the end of the  
7 night that service bartender would pool with the  
8 mez bartender.

9 Q. Were there regular staff meetings?

10 A. Yes.

11 Q. How often?

12 A. Once a week.

13 Q. What day of the week was that?

14 A. Monday.

15 Q. Who would attend those meetings?

16 A. The whole staff.

17 Q. Would back of the house employees  
18 attend that meeting?

19 A. No.

20 Q. So just service staff?

21 A. Servers and waitresses.

22 Q. Bartenders?

23 A. And bartenders, yes.

24 Q. Did the runners and barbacks attend

1 staff meeting?

2 A. No.

3 Q. Can you explain to me what you would  
4 do with your drawer at the end of your shift?

5 A. They -- the manager at that time  
6 would just take the register and count it  
7 themselves. And then we would just wait at the  
8 end of the night to see if it's on point, like  
9 even.

10 Q. How long would you have to wait?

11 A. A while. Maybe an hour, two.

12 Q. Did you have to wait at the  
13 restaurant, or could you come back the next day  
14 to find out?

15 A. No, we would have to wait.

16 Q. And what would happen if your drawer  
17 was short?

18 A. Depending on how much it was, we  
19 would give the money back. And then we would get  
20 a warning. If it was short again, we would get a  
21 second warning saying after that, you would get  
22 fired if it was short again.

23 Q. You said it depended on how short it  
24 was?

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1 worked there?  
 2 A. Yeah.  
 3 Q. And what time would that ordinarily  
 4 be?  
 5 A. At the latest maybe 3, 2:30.  
 6 Between 2 and 3.  
 7 Q. And how long would you have to wait  
 8 in order to have your drawer counted, and make  
 9 sure that everything was clear?  
 10 A. During the week?  
 11 Q. Uh-huh.  
 12 A. Not too long, maybe an hour.  
 13 Q. Was it different on the weekend?  
 14 A. Yeah, because there was a lot more  
 15 that they have to go through, as far as servers  
 16 and bartenders.  
 17 Q. So how long would it be on the  
 18 weekends?  
 19 A. About an hour or two.  
 20 Q. An hour or two? So to 5 or 6:00.  
 21 A. Yes.  
 22 Q. And you punched in every time you  
 23 started working at the 40/40 Club?  
 24 A. Yes.

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1 Q. Was that on the POSitouch system?  
 2 A. Yes.  
 3 Q. And did you do that regardless of  
 4 which bar you were at?  
 5 A. Punch in at any of the POSitouch  
 6 systems? Yeah, it didn't really matter where you  
 7 punched in.  
 8 Q. But you were required to do that  
 9 every day?  
 10 A. Yes.  
 11 Q. And also to punch out?  
 12 A. Yes.  
 13 Q. And when you punched out, did you  
 14 record your tips?  
 15 A. We recorded a percentage of our  
 16 sales. That's what I was told that's how they  
 17 punched out. Bartenders -- the bartenders who  
 18 worked there said that you would punch out your  
 19 tips depending on your percentage of sales.  
 20 Q. Other bartenders told you that?  
 21 A. Yes.  
 22 Q. What percentage of sales did you  
 23 use?  
 24 A. Ten percent.

1 Q. And you put in that number  
 2 regardless of the tips that you received?  
 3 A. Yes.  
 4 Q. Did you take breaks during your  
 5 shift?  
 6 A. No.  
 7 Q. What about just to use the restroom?  
 8 A. It was hard, because you couldn't  
 9 really leave your station unattended.  
 10 Q. What about for meals?  
 11 A. No.  
 12 Q. Did you eat at all your during  
 13 shift?  
 14 A. I tried kind of.  
 15 Q. So you could sometimes take a break  
 16 to have a meal?  
 17 A. During that -- during the week if it  
 18 wasn't busy, and someone was able to watch your  
 19 bar, if there was another bartender, then yes.  
 20 But on the weekends it was busy, no.  
 21 Q. Did you punch out during the time  
 22 you were taking those breaks?  
 23 A. No.  
 24 Q. How long were the shifts that you

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1 generally worked?  
 2 A. Pretty much open to close.  
 3 Q. How long would that be; how many  
 4 hours a day?  
 5 A. About nine to ten hours.  
 6 Q. So you typically worked between nine  
 7 to ten hours a day?  
 8 A. Yes.  
 9 Q. Were there occasions that you  
 10 believe you worked more than ten hours in a day?  
 11 A. Yes, on the weekends.  
 12 Q. On all weekends or just  
 13 occasionally?  
 14 A. Occasionally.  
 15 Q. That was the exception to the  
 16 general rule of working between nine and ten  
 17 hours?  
 18 A. Yes. We would have to make like --  
 19 some of the calls coming in would be maybe come  
 20 in at 7.  
 21 Q. I'm sorry. What was that?  
 22 A. Coming in at 7. Majority of the  
 23 time we would have to come in at 4:30 or 4.  
 24 Q. Uh-huh.

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1 A. But that's to open the bar. Then  
2 during the -- then depending on a couple of days,  
3 you could come in at 7 or later, depending on the  
4 bar you're working at.

5 Q. A couple days during the week or the  
6 weekend?

7 A. Weekend.

8 Q. Okay. Do you recall any specific  
9 day that you worked more than ten hours?

10 A. Not specific.

11 Q. Do you have any knowledge concerning  
12 the hours worked by any other employees at the  
13 40/40 Club?

14 A. Meaning did they have issues?

15 Q. Do you have knowledge about what  
16 hours they worked?

17 A. No.

18 Q. Did you take any vacations while you  
19 were working there?

20 A. No.

21 Q. How was your schedule relayed to  
22 you?

23 A. How would it relate to my --

24 Q. How did you become aware of what

1 Q. Did you ever fail to punch out?

2 A. Twice I had forgotten to punch out.

3 Q. Do you recall when those were?

4 A. No.

5 Q. How often did you work more than 40  
6 hours in a week?

7 A. Maybe a couple of weeks in December  
8 when it was a busy season for Christmas parties  
9 in December.

10 Q. But generally you worked less than  
11 40 hours?

12 A. A little less, maybe 30 -- between  
13 30 and 40.

14 Q. Okay. So there were maybe two weeks  
15 or so --

16 A. Two or three.

17 Q. -- that you worked more than 40?

18 A. More than 40.

19 Q. Do you -- I'm sorry. You said those  
20 were in December?

21 A. In December, yes.

22 Q. Around Christmas-time?

23 A. Yes.

24 Q. Do you have any records of the hours

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1 your schedule was each week?

2 A. We would get our schedule each week  
3 at the meeting.

4 Q. Who gave that to you?

5 A. Des or the manager.

6 Q. Do you know who created the  
7 schedule?

8 A. Des.

9 Q. Did you ever need to request a  
10 change to your schedule?

11 A. Every week we fill out a form saying  
12 what we can and cannot work, what days.

13 Q. You were filling that out for the  
14 following week or for the current week schedule?

15 A. For the following week.

16 Q. What if you needed a change to the  
17 current week schedule?

18 A. We would see if anyone could cover  
19 it. And then we would approach, either the  
20 manager or Des that -- about what date we needed  
21 to take off, and this person is filling in. And  
22 then they would make a -- initial it on the  
23 schedule. So that they know that it was  
24 confirmed by Des.

1 that you worked at the 40/40 Club?

2 A. No.

3 Q. Did you have the ability to print  
4 out from POSitouch the hours that you had  
5 worked?

6 A. Yes.

7 Q. But you never did so?

8 A. I never did --

9 Q. You never printed them out?

10 A. I printed them. I took it. But I  
11 assumed that we would get something as far as a  
12 check to show our hours.

13 Q. So what did you do with that  
14 printout?

15 A. I keep it.

16 Q. So do you still have that?

17 A. No, I don't.

18 Q. When did you get rid of those?

19 A. Pretty much when I wasn't working at  
20 40/40.

MS. SHEINKIN: Can we take a break?

MR. KIRSCHENBAUM: Sure.

MS. SHEINKIN: Just five minutes.

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1 bartender. The rest were servers.

2 **Q. And tell me about your conversation**  
3 **with Emanuel.**

4 A. Same thing. It was more just a lot  
5 of questioning.

6 **Q. Well, it sounds like you're asking**  
7 **questions concerning why you haven't received**  
8 **money for this party. Were you also referring to**  
9 **not receiving wages?**

10 A. That was already spoken about.  
11 Because as I said, majority of the time they  
12 would just tell us -- well, tell me, that no one  
13 ever received a paycheck. It was kind of the  
14 mystery question.

15 **Q. Did they specifically tell you that**  
16 **they had not received wages for the hours they**  
17 **had worked?**

18 A. No, they kind of just said, we never  
19 get a paycheck.

20 **Q. Did anyone at the 40/40 Club ever**  
21 **tell you they had not received wages for the**  
22 **hours that they worked?**

23 MR. KIRSCHENBAUM: Objection.  
24 That's a vague question.

1 **Q. Do you understand the question?**

2 A. They didn't specifically say -- they  
3 didn't say -- I mean the only way to know if you  
4 were getting paid is if you received a paycheck;  
5 right? So if you don't know -- if you're not  
6 receiving a paycheck, you don't know if you're  
7 getting paid.

8 **Q. Well, do you know if they were**  
9 **referring to wages for hours worked as opposed to**  
10 **checks for parties?**

11 A. Hours for work. Checks for parties  
12 were different. You worked an event, you get  
13 tipped out, but you get a paycheck for that.  
14 That's completely different. Hourly pay, that's  
15 something, even if it's nothing on the check you  
16 still need to receive something. At least that's  
17 what I had gotten at other establishments that I  
18 had worked at.

19 **Q. And at these other establishments**  
20 **you'd end up with a zero balanced --**

21 A. Yes.

22 **Q. -- check? Is that also what you**  
23 **would expect to receive at the 40/40 Club?**

24 A. Yes.

1 **Q. So you weren't expecting any wages**  
2 **to be paid to you, you were just --**

3 MR. KIRSCHENBAUM: Objection.

4 That's not what she said.

5 MS. SHEINKIN: I'm asking a  
6 question.

7 MR. KIRSCHENBAUM: Sure.

8 **Q. Is that correct, you weren't**  
9 **expecting any actual wages to be paid?**

10 A. I was expecting something.

11 **Q. Just a stub that had that zeroed out**  
12 **balance on it?**

13 A. It doesn't necessary have to be  
14 zero. It only depends on how much you make  
15 during the week. If taxes were taken out from  
16 what the wages were supposed to be. It could be  
17 a dollar. It would be 50 cents.

18 **Q. How much money in tips did you make**  
19 **during the week?**

20 A. During the week.

21 **Q. Or in a given week?**

22 A. In a given week maybe -- including  
23 the weekends, maybe 200, a little bit less.

24 **Q. \$200 for a week in tips?**

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1 A. There were days where I walked out  
2 with nothing.

3 **Q. Why would that happen?**

4 A. Because there was no customers at  
5 the bar.

6 **Q. So that's when you were at a not**  
7 **service bar?**

8 A. That was when I was working at the  
9 main bar during the week, no customers. But we  
10 kind of still had to stay there anyway.

11 **Q. For how long would that -- did that**  
12 **shift last?**

13 A. Till 2, 3 as I said earlier.

14 **Q. How many hours?**

15 A. Go in at 4, leave at 2.

16 **Q. And there were absolutely no**  
17 **customers during that entire time period?**

18 A. There was customers, but my tips  
19 were \$5. There was maybe one customer, two max.

20 **Q. What about the tip outs from the**  
21 **servers?**

22 A. It wouldn't be much, because they as  
23 well weren't making money.

24 **Q. And then at the end of the night,**

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1 MR. KIRSCHENBAUM: That's your own  
2 representation.

3 MR. MARKS: Well, the record states  
4 what she started to say. Please let me  
5 finish.

6 So it's obviously relevant to get  
7 some evidence from her perspective of what  
8 she was paid. I don't see how you could  
9 argue that it's not relevant. She's made  
10 representation to the government or  
11 whatever it is. Maybe it's not  
12 dispositive, but it's certainly relevant  
13 to how much she believes that she was paid  
14 or not paid.

15 MR. KIRSCHENBAUM: The case law is  
16 abundant with statements that employee tax  
17 returns are not relevant, are  
18 presumptively inadmissible as evidence and  
19 non-discoverable. And I'm ready to have  
20 you try and make your point at some other  
21 occasion, but right now I'm instructing my  
22 client not to answer your question.

23 MR. MARKS: Okay. Well, you know  
24 that if we have to do that, we'll come

1 MR. MARKS: January, like two weeks  
2 ago?

3 THE WITNESS: Yes.

4 Q. Are you referring to a W2 for 2007?  
5 Work that you did in 2007 or work that you did in  
6 2006? Are you referring to the document attached  
7 as Exhibit C to your declaration?

8 A. I'm sorry. Repeat that.

9 Q. The document attached as Exhibit C  
10 to your declaration?

11 A. Yes.

12 Q. Which you have in front of you?

13 A. This one; right? That's C.

14 Q. No, it's --

15 A. It says C.

16 Q. Marked as Exhibit Raz A. Exhibit C  
17 to your declaration.

18 MR. KIRSCHENBAUM: Exhibit C to this  
19 document. Is it all right if I turn the  
20 pages for her?

21 MS. SHEINKIN: Yes. Sure.

22 A. This is not what I received.

23 Q. So you received a different W2?

24 A. Yes.

55

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1 back and you'll have to pay.

2 MR. KIRSCHENBAUM: That's fine.

3 MR. MARKS: You want to have that,  
4 that's fine.

5 MR. KIRSCHENBAUM: I'll take the  
6 consequences in stride.

7 MR. MARKS: Okay.

9 BY MS. SHEINKIN:

10 Q. Are you refusing to answer that  
11 question?

12 MR. KIRSCHENBAUM: Yes.

13 A. Yes.

14 Q. Did you receive a W2 from 40/40  
15 Club?

16 A. Yes, but it doesn't say much.

17 Q. But you did receive it?

18 A. It doesn't say much. It doesn't  
19 look like a W2 form I would normally receive.

20 Q. When did you receive it?

21 A. January of this year.

22 Q. So you received that in the mail  
23 from the 40/40 Club?

24 A. Yes.

1 Q. When did you first receive this  
2 document?

3 A. What document?

4 Q. Exhibit C to Raz A.

5 A. This right here?

6 Q. Yes.

7 A. This is the first time I'm seeing it  
8 right now, actually.

9 Q. This is the first time you're seeing  
10 it --

11 A. Yes.

12 Q. -- even though it's attached as an  
13 exhibit to your declaration?

14 A. I had only received up to here.  
15 This is what I have.

16 Q. I'm sorry?

17 A. For me to see -- like what I looked  
18 at and went over was this.

19 Q. You've never seen the exhibits to  
20 your declaration?

21 A. No.

22 Q. Let's look at them. For instance,  
23 you have as Exhibit B a payroll report; do you  
24 see that document?



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1 A. Uh-huh.  
 2 **Q. Do you have any reason to believe**  
 3 **that this is not an accurate reflection of the**  
 4 **hours that you worked at the 40/40 club?**  
 5 A. I wouldn't know. I didn't receive  
 6 anything.  
 7 **Q. Are you looking at the right**  
 8 **document, Exhibit B?**  
 9 A. This one right here?  
 10 **Q. Yeah. My question was: Do you have**  
 11 **any reason to believe that the report is not an**  
 12 **accurate reflection of your working hours at the**  
 13 **40/40 Club?**  
 14 A. I wouldn't know though, because I  
 15 didn't receive a paycheck.  
 16 **Q. My question was if you had a reason**  
 17 **to believe that it's not accurate.**  
 18 A. Where are the dates?  
 19 MR. MARKS: On the left.  
 20 A. So the first line is January 14th,  
 21 second is January 21st?  
 22 **Q. Right.**  
 23 A. Why would it go up to February?  
 24 MR. MARKS: Cause you worked till  
 59  
 1 then?  
 2 THE WITNESS: No.  
 3 MR. MARKS: No?  
 4 THE WITNESS: I only worked from  
 5 November 2006 to January of '07.  
 6 **Q. Other than the fact that it has**  
 7 **dates in February, and you said that you stopped**  
 8 **working in January, is there any reason that you**  
 9 **have to doubt that these reports are an accurate**  
 10 **reflection of your hours worked?**  
 11 A. I mean if this is -- is this  
 12 everything? I mean where did December go?  
 13 **Q. This is for 2007?**  
 14 A. So then you would just count for the  
 15 first three dates. So are you telling me that  
 16 for February, and what is that six, that's June.  
 17 I'm getting taxed for that?  
 18 **Q. I'm not telling you anything. I'm**  
 19 **asking you if you have any reason to believe that**  
 20 **this is not an accurate reflection of your**  
 21 **working hours at the 40/40 Club?**  
 22 A. It's not.  
 23 **Q. Okay. What --**  
 24 A. I mean I'm trying to understand --

1 **Q. Because it includes dates in**  
 2 **February, is that why it's not accurate?**  
 3 A. Yes.  
 4 MR. KIRSCHENBAUM: Do you mind if I  
 5 just point to my client where the hours  
 6 are recorded in this document?  
 7 MS. SHEINKIN: Go ahead.  
 8 THE WITNESS: Right. I understand  
 9 that.  
 10 **Q. Have you seen this document before?**  
 11 A. No.  
 12 **Q. You've never seen this document?**  
 13 A. No.  
 14 **Q. In your declaration, you say that**  
 15 **this document was shown to you by your lawyers;**  
 16 **is that a false statement?**  
 17 A. I seen the -- this one.  
 18 **Q. You've seen Exhibit A?**  
 19 A. Yes.  
 20 **Q. But it's a false statement that you**  
 21 **have previously seen the documents attached as**  
 22 **Exhibit B and Exhibit C?**  
 23 A. C, I have not. C, I didn't see.  
 24 **Q. Your lawyers never showed you that**  
 61  
 1 **document?**  
 2 A. These --  
 3 MR. KIRSCHENBAUM: Objection. First  
 4 of all, it's attorney/client privilege.  
 5 MR. MARKS: We'll invoke the fraud  
 6 exception, because the declaration says  
 7 she was shown it by her attorney. So  
 8 we're allowed to explore that.  
 9 MR. KIRSCHENBAUM: My communication  
 10 to her is not an inference of any fraud.  
 11 MR. MARKS: Well, I don't know. She  
 12 swore to something that's apparently not  
 13 true.  
 14 A. These I've seen. This I have not  
 15 seen.  
 16 **Q. You have not seen Exhibit C?**  
 17 A. No.  
 18 **Q. But now, you have seen Exhibit B?**  
 19 A. No, C, I have now seen. B and A, I  
 20 have seen.  
 21 **Q. When did you see Exhibit B?**  
 22 A. When did I see B, when I met with  
 23 him earlier.  
 24 **Q. Today?**

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1 it should have been. Because it was busy. I  
2 just didn't know -- I wasn't being careful at  
3 that time.

4 **Q. Okay. What happened?**

5 A. I had multiple credit card slips,  
6 and then I was kind of just going.

7 **Q. How did that issue come to light?**

8 A. At the end of the night.

9 **Q. Okay. What happened?**

10 A. Des approached me about it, asked me  
11 what happened. I don't know how it happened. I  
12 messed up. I took the wrong imprint by accident.  
13 And that was my story.

14 **Q. And at that time you didn't receive  
15 the tip for that check?**

16 A. No.

17 **Q. And what happened after 90 days,  
18 then you did receive it?**

19 A. No, I had left already by that time.

20 **Q. So you never went back to ask for  
21 it?**

22 A. No.

23 **Q. Do you have any knowledge of any  
24 other employee having a tip retained because of a**

1 **Q. Who was the other bartender?**

2 A. Jenny.

3 **Q. Jenny?**

4 A. Jenny.

5 **Q. How did the bottle break?**

6 A. The -- it's on glass, and because of  
7 the music being so loud the bass pushes it  
8 forward.

9 **Q. So neither of you were touching the  
10 bottle when it broke?**

11 A. No, we have to kind of monitor it  
12 and keep pushing it back. But at that time it  
13 was busy, and we just kind of didn't.

14 **Q. How much was the bottle?**

15 A. I think we had to pay 40 each,  
16 something like that.

17 **Q. Do you recall what it was?**

18 A. Bombay Sapphire.

19 **Q. Who did you pay the money to?**

20 A. I gave it to Jenny, and I believe  
21 Jenny gave it to Des or whatever manager.

22 **Q. Did somebody tell you that you had  
23 to pay that money?**

24 A. We had to say -- we had to say what

1 **dispute with a credit card?**

2 A. Yes, but I do not know the name. I  
3 remember hearing that.

4 **Q. But you don't have any specific  
5 knowledge of any specific incident where that  
6 occurred?**

7 A. No.

8 **Q. Did you ever have any money taken  
9 from you for spills or breakage?**

10 A. Breakage.

11 **Q. That did occur?**

12 A. Yes.

13 **Q. On how many occasions?**

14 A. One.

15 **Q. What were the circumstances?**

16 A. A bottle broke.

17 **Q. A bottle of alcohol?**

18 A. Yes.

19 **Q. And what happened?**

20 A. It was me and another bartender I  
21 was working with at that time. A bottle broke,  
22 and we had to pay for it.

23 **Q. You and the other bartender?**

24 A. Yes.

1 happened, because at the end of the night in  
2 order for us to get a full bottle we have return  
3 an empty bottle. So we had to tell the manager  
4 that a bottle broke.

5 **Q. What manager?**

6 A. I think his name was Michael.

7 **Q. Michael?**

8 A. Michael.

9 **Q. Do you recall his last name?**

10 A. No.

11 **Q. Do you recall when this occurred?**

12 A. No.

13 **Q. And you gave \$40 to Jenny?**

14 A. Jenny said, do you have the money  
15 for the bottle, and I'll give it to the manager  
16 or Des.

17 **Q. Did you witness her give it to the  
18 manager?**

19 A. No.

20 **Q. So you don't know one way or the  
21 other whether or not she gave that money to  
22 anyone at the 40/40 Club?**

23 A. I didn't witness it.

24 **Q. Other than Jenny, did you witness**  
18 (Pages 66 to 69)

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1 any other employee having to pay for breakage or  
2 spills?

3 A. No, not that I saw or witnessed.

4 Q. Have you ever seen or been involved  
5 in any other breakage?

6 A. No, only that one incident.

7 Q. Have you ever spilled a drink?

8 A. I mean there was a mistake.

9 Q. What sort of mistake?

10 A. Like if I heard a drink wrong, and I  
11 made a different drink.

12 Q. Okay. What did you do in those  
13 circumstances?

14 A. I would save it to see if I could  
15 use it again for another drink, and that's pretty  
16 much it.

17 Q. But you didn't have to pay for that?

18 A. No.

19 Q. Have you talked to any current or  
20 former employees of the 40/40 Club concerning  
21 your claims in this matter?

22 A. No.

23 Q. Have you communicated with any  
24 current or former employees since you've left the

1 Q. What did she say?

2 A. Well, I overheard the news, and then  
3 -- about what was going on.

4 Q. You heard about the case in the  
5 news?

6 A. Yes, then she asked -- she had  
7 texted me about what she was getting involved in.

8 Q. She texted you?

9 A. Yeah.

10 Q. What did she say?

11 A. That she was speaking to someone  
12 that was involved in the case. And if I wanted  
13 to be involved to call that person.

14 Q. Was that person an attorney?

15 A. Yes.

16 Q. Did she give you any other  
17 information about the case?

18 A. No.

19 Q. Have you ever seen Shawn Carter in  
20 the club?

21 A. Yes.

22 Q. On how many occasions?

23 A. Maybe five times.

24 Q. Was he there as a guest?

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1 40/40 Club?

2 A. Yes.

3 Q. Who?

4 A. Amber, Lauren, Shaquana, Kim,  
5 Kimberly.

6 Q. Is Kim the same as Kimberly?

7 A. Yeah, there's a Kim.

8 Q. Oh, two different people?

9 A. Yeah, and then there's Kimberly.

10 Q. Is that on a social level?

11 A. Yes.

12 Q. Have you asked any of these  
13 individuals whether or not they want to join in  
14 this lawsuit?

15 A. No.

16 Q. Have you communicated with them at  
17 all concerning this lawsuit?

18 A. No.

19 Q. How did you become involved in this  
20 lawsuit?

21 A. Christine -- Christy told me about  
22 it.

23 Q. Christine Borbely?

24 A. Yes.

1 A. He would just come in whenever, I  
2 guess, he was in New York.

3 Q. Just to visit the club?

4 A. (Witness nods head.)

5 Q. Did he have an office in the club?

6 A. Not that I know of.

7 Q. Did you ever have any communication  
8 with him?

9 A. No.

10 Q. Did he ever give you any direction?

11 A. No.

12 Q. Have you seen Juan Perez in the  
13 club?

14 A. Yes.

15 Q. On how many occasions?

16 A. A lot. He was there majority of the  
17 time.

18 Q. Did you ever communicate with him?

19 A. At the end of the night, as far as  
20 just seeing if our banks were okay. He would  
21 count money. And we would go to him to see if  
22 everything was okay with our drawer. If we  
23 needed to owe money. If our drawer was short.

24 Q. Was that the only communication you

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1 had with him?  
 2 A. Yes.  
 3 Q. Did he ever give you any direction?  
 4 A. No.  
 5 Q. Do you know if either Shawn Carter  
 6 or Juan Perez had ever hired any employees of the  
 7 40/40 Club?  
 8 A. Not that I know of.  
 9 Q. Do you know any employees that  
 10 either of them ever terminated?  
 11 A. No.  
 12 Q. Do you have knowledge concerning how  
 13 other employees, other than servers and  
 14 bartenders, were compensated?  
 15 A. As far as tips from customers?  
 16 Q. As far as how they're paid by 40/40  
 17 Club?  
 18 A. Not to my knowledge.  
 19 Q. Did any position receive tips from  
 20 customers other than servers and bartender?  
 21 A. No.  
 22 Q. And do you know how -- you've tipped  
 23 out, you said, to barbacks?  
 24 A. Barbacks.

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1 Q. Do you know how the barbacks were  
 2 compensated by the 40/40 Club?  
 3 A. No.  
 4 MS. SHEINKIN: Can we take another  
 5 break?  
 6 MR. KIRSCHENBAUM: Sure.  
 7  
 8 (A recess was taken.)  
 9  
 10 (Raz Exhibit E, SALES  
 11 JOURNAL REPORT, was marked  
 12 for identification.)  
 13  
 14 (Raz Exhibit F, TIME RECORDS,  
 15 were marked for identification.)  
 16  
 17 (Raz Exhibit G, TRANSACTION REPORT,  
 18 was marked for identification.)  
 19  
 20 BY MS. SHEINKIN:  
 21 Q. Ms. Raz, when you closed each night,  
 22 you would have a report of how much you had made  
 23 in sales that day?  
 24 A. Yes, I would assume so. I never saw

1 my sales.  
 2 Q. You never saw your sales?  
 3 A. (Witness shakes head.)  
 4 Q. How did you then know what the ten  
 5 percent of your sales was that you were declaring  
 6 as --  
 7 A. I'm sorry, yes. When you had to  
 8 punch out you could see a percentage -- you could  
 9 see your sales. But I didn't see the actual  
 10 printout.  
 11 Q. You could see your sales for the  
 12 day?  
 13 A. Yes.  
 14 Q. How did you tip out the barbacks if  
 15 you hadn't yet seen your sales numbers?  
 16 A. Actually -- I'm sorry. You know  
 17 why, cause I've worked at so many places. It's  
 18 kind of all together. We would see food sales,  
 19 and that would be tipped out somehow. Honestly,  
 20 I forgot how it worked. You would have to look  
 21 at the food sales.  
 22 Q. Because you also tipped out food  
 23 runners?  
 24 A. Food runners.

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1 Q. How did you tip them out?  
 2 A. I believe a percentage of the sales.  
 3 Q. Of total sales, food and drink?  
 4 A. Total sales of food only.  
 5 Q. Are you saying there's two separate  
 6 reports between food and drink?  
 7 A. Yes, there's two different lines.  
 8 There was like -- there was a food sale, I know  
 9 that.  
 10 Q. And drink sale. And that was on one  
 11 single report?  
 12 A. Well, the total -- I believe the  
 13 total that we get to see is everything with the  
 14 food and the drinks.  
 15 Q. Okay. And that is something that  
 16 you would see each night when you closed out?  
 17 A. Yes.  
 18 Q. And would it also distinguish  
 19 between cash sales and credit card sales?  
 20 A. Yes.  
 21 Q. Okay. And can you please look at  
 22 what I've marked as Exhibit Raz E.  
 23 A. Yes.  
 24 Q. It should be right in front of you.